

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

DEBORAH SCHIFFER,
Plain
v.
PROGRESSIVE CASUALTY INSUR-
COMPANY, dba PROGRESSIVE, *et al*
Defenda

Case No. 2:16-cv-00208-APG-PAL

ORDER REMANDING CASE TO STATE COURT

(ECF No. 8)

This action originally was filed in Nevada state court on May 7, 2015. ECF No. 1-1. The various Progressive defendants (collectively, “Progressive”) were served with the summons and complaint in August and September 2015. ECF No. 1 at 3. Plaintiff Schiffer granted the defendants an open extension of the time to answer her complaint, so the parties could review the case and negotiate a resolution. *Id.* Ultimately, Progressive removed the case to this court on February 3, 2016. *Id.* at 1. Schiffer contends that the case should be remanded to state court because Progressive removed it more than 30 days after service of the summons and complaint, in violation of 28 U.S.C. § 1446(b)(1). I agree.

“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading” 28 U.S.C. § 1446(b)(1). Progressive contends that this 30-day deadline was waived by Schiffer when she agreed to extend the deadline for it to respond to her complaint. However, the correspondence between the parties belies that contention. Progressive’s representative asked Schiffer’s lawyer: “Will you agree to an extension of the Answer deadline to allow time for me to review the demand once received and give us an opportunity to negotiate?” ECF No. 8-9 at 2. Schiffer’s counsel responded: “Yes, an extension of time to answer while we negotiate is agreeable.” *Id.* No mention is made of an extension of the removal deadline. Thus, without deciding whether the 30-day deadline in 28 U.S.C. § 1446(b)(1) can be extended by agreement of the parties, there is no evidence

1 that the parties agreed to such an extension. Rather, the agreement extended only the answer
2 deadline, which is different from the removal deadline. Because this matter was removed after
3 expiration of the 30-day statutory deadline, I remand the case to state court.

4 IT IS HEREBY ORDERED that this case is remanded to the state court from which it was
5 removed. The clerk of court is directed to close this case.

6 DATED THIS 18th day of May, 2016.



7 ANDREW P. GORDON
8 UNITED STATES DISTRICT JUDGE

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28